

**Testimony offered on behalf of:
Atlantic Tractor**

**IN OPPOSITION TO:
HB0562 – Consumer Protection – Right to Repair – Farm Equipment**

**House Economic Matters Committee
Hearing: February 23, 2022, at 1:00 PM**

ATLANTIC TRACTOR OPPOSES H.B. 562

My name is Mel Goldsmith, and I am the CEO for Atlantic Tractor Company. Our dealership has 15 locations with 13 of those locations across the beautiful state of Maryland. We are independently owned and operated and our business employs approximately 380 employees. On behalf of Atlantic Tractor, I am here to express our opposition to H.B. 562, and I would like to take this opportunity to express and explain my opposition to this bill as it pertains to our agricultural equipment business.

First and foremost, Atlantic Tractor fully supports our farmers' "right to repair" and we have worked diligently to educate our farmers about the broad and cost-effective diagnostic and repair options which they can take advantage of. One place to access these resources is our website. See <https://www.atlantictractor.net/DIY-Self-and-Repair>. On the "Do-It-Yourself and Self-Repair" page, you'll find extensive resources including:

- Instructions on how to access to John Deere mobile apps, which offer diagnostic and repair information to farmers, many of which are free of charge;
- Directions on how to order repair and service manuals;
- Directions on how to order Special Tools required to perform critical tasks; and
- Directions on how to subscribe to Customer Service Advisor 5.2, which contains the same diagnostic software John Deere Dealer Technician's use to diagnose and repair equipment.

All these tools and resources are affordable and supported by our dealership. We also sell parts "over the counter" to farmers on a daily basis. In fact, Atlantic Tractor stocks approximately \$11 million in parts inventory, annually. Of those parts, 65% are sold over the counter directly to customers including farmers, or independent repair providers who are performing the repair. For our farmers, this means that they get timely, local access to the replacement parts they need to maximize uptime and get their work done in a timely manner.

If my dealership is unable to make a profit on parts, as H.B. 562 would mandate, the economic incentive to stock those parts is eliminated. As a practical matter, this will leave Maryland farmers who need parts with an inability to locally source an OEM part.

Instead, the farmer will be forced to order the part from the OEM and have it shipped. While overnight shipping may be available in some cases, supply chain issues continue to influence the industry and would no doubt become a factor in the timely arrival of replacement OEM parts needed for farmer repairs. Shipping of large parts can also be costly, and the farmer will not have the benefits of a bulk shipping program utilized under the current, equipment dealership distribution model. All in all, a forced, direct OEM to farmer parts mandate will lead to a lack of locally sourced OEM parts, slower parts replacement times, reduced repair options and higher priced whole goods for farmers.

These parts statistics bring me to another justification advanced for this legislation: a need for “increased competition” in the repair market. It is important to note that Customer Service Advisor 5.2, and the full array of DIY offerings available to farmers today, do not provide the technical training required to perform sophisticated diagnostic tests and troubleshooting procedures which comes with significant formal education and years of experience in the field. Modern diesel engines and power trains utilize a vast array of sophisticated electronic components and sensors in order to deliver appropriate horsepower and productivity, conserve fuel and comply with EPA emissions standards, which are required to remain in-tact during the entire useful life of the equipment we sell. Let me be very clear, any independent repair provider can access the tools, diagnostics and repair information that I have discussed today. Operating such a business, however, requires investment in not only these items but also in training on the complex systems.

By way of example, in addition, we spend millions of dollars annually on diagnostic subscriptions, tools and overhead for repair facilities and mobile repair vehicles to keep our technicians up and running. Atlantic Tractor also invests around \$342,000 annually for the technical training necessary to ensure our technicians are able to repair these complex systems and that the repairs are completed expeditiously and repaired right the first time. It is this investment in infrastructure, repair and diagnostic technology and technical education which allows Atlantic Tractor to service not only the John Deere equipment we sell, *but also other brands of equipment which a farmer needs repaired.*

For those farmers and independent repair providers that do have the skill set to repair equipment, most often, repairs begin with the accurate diagnosis of the problem. In many instances the machines themselves identify and display both the failure and remedy. The diagnostic and repair software we ourselves use to recalibrate components after repairs are available for purchase by farmers and independent repair centers. Further, we offer repair advice through technical communicators, make available a technical expert to advise a farmer onsite as they repair their equipment, and make available for sale any special tools necessary for a particular repair.

H.B 562 plainly is about access to information we do not currently provide which is a very small (less than 2% of repairs) and which requires access to the electronic engine controllers for purposes of “reprogramming.” The desire for this access is interesting in

that at Atlantic Tractor, an authorized John Deere dealer, we can only undertake “reprogramming” with OEM oversight. While technology continues to advance, there is no way currently to allow a customer to reprogram a controller without giving full access to the embedded code in the process. The secured process used today is designed to ensure that engine outputs and safety mechanisms are kept as specified by the OEM. This, in turn, protects the long engine life and ensures that engine emissions comply with EPA requirements. Without such safeguards, the safety and emissions advances that protect equipment users, bystanders and our environment are unnecessarily put at risk.

With safety as our top priority, the unfettered access sought within H.B. 562 is irresponsible. Much of the equipment sold today is semi-autonomous and fully autonomous equipment will be on the market later this year. In addition, farmers use their equipment to generate and transfer significant amounts of sensitive data about their business operations. H.B. 562 would undoubtedly create additional cybersecurity risks to those data systems and our industry as a whole.

Much of the Right to Repair movement is about allowing owner’s access to defeat emissions systems and increase engine horsepower, thus it should be more accurately renamed “the Right to Modify”. I invite you to visit any of our Maryland facilities to learn more about this issue and see for yourself how we already support our farmer’s “Right to Repair.” In any event I hope I can count on your support to stop H.B. 562 which is, a “solution in search of a problem,” from advancing both now and in the future.

Therefore, Atlantic Tractor respectfully requests an **UNFAVORABLE COMMITTEE REPORT** on H.B. 562.

Respectfully Submitted,

Mel Goldsmith
General Manager
Atlantic Tractor